



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R10-OAR-2016-0056; FRL-9974-79-Region 10]**

**Air Plan Approval; OR: Infrastructure Requirements for the 2010 Nitrogen Dioxide, 2010**

**Sulfur Dioxide, and 2012 Fine Particulate Matter Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act (CAA) requires states to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. The Environmental Protection Agency (EPA) is proposing to approve the Oregon State Implementation Plan (SIP) as meeting infrastructure requirements for the 2010 nitrogen dioxide (NO<sub>2</sub>), 2010 sulfur dioxide (SO<sub>2</sub>), and 2012 fine particulate matter (PM<sub>2.5</sub>) NAAQS. The EPA is also proposing to approve, and incorporate by reference, rule changes made by the state to implement the PM<sub>2.5</sub> NAAQS, relevant to this infrastructure action, and also the ozone NAAQS, which is unrelated to this action, but included for efficiency.

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2016-0056, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov*. The EPA may publish

any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION, CONTACT:** Kristin Hall, Air Planning Unit, Office of Air and Waste (OAW-150), Environmental Protection Agency – Region 10, 1200 Sixth Ave, Seattle, WA 98101; telephone number: (206) 553-6357; email address: [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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### **I. Background**

On January 22, 2010, the EPA established a primary NO<sub>2</sub> NAAQS at 100 parts per billion (ppb), averaged over one hour, supplementing the existing annual standard (75 FR 6474).

Later that year, on June 2, 2010, the EPA promulgated a revised primary SO<sub>2</sub> NAAQS at 75 ppb, based on a three-year average of the annual 99<sup>th</sup> percentile of one-hour daily maximum concentrations (75 FR 35520). More recently, on December 14, 2012, the EPA lowered the level of the primary annual PM<sub>2.5</sub> NAAQS to 12 µg/m<sup>3</sup> and retained the remaining particulate matter standards (January 15 2013, 78 FR 3086). Whenever a new or revised standard is promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. On September 13, 2013, the EPA issued guidance to help states address these infrastructure requirements (2013 Guidance).<sup>1</sup> As noted in the 2013 Guidance, to the extent an existing SIP already meets the CAA section 110(a)(2) requirements, states may certify that fact in their submission to the EPA.

On December 27, 2013, Oregon made an infrastructure SIP submission for the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> NAAQS.<sup>2</sup> Later, on October 20, 2015, Oregon made an infrastructure SIP submission for the 2012 PM<sub>2.5</sub> NAAQS.<sup>3</sup> Included in these submissions were specific rule revisions made to implement the revised standards in Oregon. For a detailed discussion of the submitted rule changes, please see Section V. below.

As part of this action we are also addressing a SIP revision submitted by Oregon on July 18, 2017. The July 18, 2017, submission updated an Oregon rule to account for a change to the

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<sup>1</sup> Stephen D. Page, Director, Office of Air Quality Planning and Standards. “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).” Memorandum to EPA Air Division Directors, Regions 1 – 10, September 13, 2013.

<sup>2</sup> The December 27, 2013, submission also addressed infrastructure requirements for the 2008 lead (Pb) NAAQS. We approved the Pb-related portion of the submission on June 24, 2014, therefore, this action does not address the 2008 Pb NAAQS (79 FR 35693).

<sup>3</sup> The October 20, 2015, submission also addressed the interstate transport requirements at CAA section 110(a)(2)(D) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS. However, this action only addresses a portion of the interstate transport requirements, specifically CAA sections 110(a)(2)(D)(i)(II) and 110(a)(2)(D)(ii). We intend to address the remainder, CAA section 110(a)(2)(D)(i)(I), in a separate, future action. *See* section 110(a)(2)(D) below.

federal ozone standard. We note that this update to the ozone standard in the Oregon SIP is not relevant to our infrastructure action on the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS, and is only being included in this action for efficiency. For a detailed discussion of this rule change, please see Section V. below.

## **II. Infrastructure Elements**

CAA section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. CAA section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS. The requirements, with corresponding CAA subsections, are listed below:

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.
- 110(a)(2)(J): Consultation with government officials; public notification; and Prevention of Significant Deterioration (PSD) and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.

- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

The EPA's 2013 Guidance restated our interpretation that two elements are not governed by the three-year submission deadline in CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are due on separate schedules, pursuant to CAA section 172 and the various pollutant-specific subparts 2 through 5 of part D. These are submissions required by: (i) CAA section 110(a)(2)(C), to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) CAA section 110(a)(2)(I). As a result, this action does not address CAA section 110(a)(2)(C) with respect to nonattainment new source review (NSR) or CAA section 110(a)(2)(I). The EPA has also determined that the CAA section 110(a)(2)(J) provision on visibility is not triggered by a new NAAQS because the visibility requirements in part C, title I of the CAA are not changed by a new NAAQS.

### **III. EPA Approach to Review of Infrastructure SIP Submissions**

We are proposing to approve Oregon's December 23, 2013, and October 20, 2015, submissions for certain infrastructure requirements. Our most recent action on an Oregon infrastructure submission was published on June 24, 2014 (79 FR 35693). In the preamble of the proposal for that action, we published a discussion of the EPA's overall approach to review of these types of submissions. Please see our April 17, 2014, proposed rule for this discussion (79 FR 21679, at page 21680).

### **IV. EPA Infrastructure Evaluation**

#### 110(a)(2)(A): Emission limits and other control measures

CAA section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other

control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the CAA.

State submissions: Oregon's submissions cite multiple Oregon air quality laws and SIP-approved regulations to address this element for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS. Oregon Revised Statutes (ORS) 468A.035 *General Comprehensive Plan* provides authority to the Oregon Department of Environmental Quality (ODEQ) to develop a general comprehensive plan for the control or abatement of air pollution. ORS 468.020 *Rules and Standards* gives the Oregon Environmental Quality Commission (EQC) authority to adopt rules and standards to perform functions vested by law. ORS 468A.025 *Air Purity Standards* provides the EQC with authority to set air quality standards, emission standards, and emission treatment and control provisions. ORS 468A.040 *Permits; Rules* provides that the EQC may require permits for specific sources, type of air contaminant or specific areas of the state. The Oregon submissions also cite these other laws and regulations:

- ORS 468A.045 Activities Prohibited without Permit; Limit on Activities with Permit
- ORS 468A.050 Classification of Air Contamination Sources; Registration and Reporting; Registration and Reporting of Sources; Rules; Fees
- ORS 468A.055 Notice Prior to Construction of New Sources; Order Authorizing or Prohibiting Construction; Effect of No Order; Appeal
- ORS 468A.070 Measurement and Testing of Contamination Sources; Rules
- ORS 468A.310 Federal Operating Permit Program Approval; Rules; Content of Plan
- ORS 468A.315 Emission Fees for Major Sources; Base Fees; Basis of Fees; Rules

- ORS 468A.350-455 Motor Vehicle Pollution Control
- ORS 468A.460-520 Woodstove Emissions Control
- ORS 468A.550-620 Field Burning and Propane Flaming
- ORS 468A.990 Penalties for Air Pollution Offenses
- OAR 340-200 General Air Pollution Procedures and Definitions
- OAR 340-202 Ambient Air Quality Standards and PSD Increments
- OAR 340-204 Designation of Air Quality Areas
- OAR 340-208 Visible Emissions
- OAR 340-216 Air Contaminant Discharge Permits
- OAR 340-222 Stationary Source Plant Site Emission Limits
- OAR 340-224 New Source Review
- OAR 340-225 Air Quality Analysis Requirements
- OAR 340-226 General Emission Standards
- OAR 340-228 Requirements for Fuel Burning Equipment and Fuel Sulfur Content
- OAR 340-232 Emission Standards for VOC Point Sources
- OAR 340-234 Emission Standards for Wood Products Industries: Emission Limitations
- OAR 340-236 Emission Standards for Specific Industries: Emission Limits
- OAR 340-240 Rules for Areas with Unique Air Quality Needs
- OAR 340-242 Rules Applicable to the Portland Area
- OAR 340-250 General Conformity

- OAR 340-252 Transportation Conformity
- OAR 340-256 Motor Vehicles
- OAR 340-258 Motor Vehicle Fuel Specifications
- OAR 340-262 Residential Woodheating
- OAR 340-266 Field Burning Rules
- OAR 340-268 Emission Reduction Credits

EPA analysis: Oregon regulates emissions of NO<sub>2</sub>, SO<sub>2</sub>, and PM<sub>2.5</sub> (and nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) as precursors to PM<sub>2.5</sub>) through its SIP-approved new source review (NSR) permitting program, in addition to provisions described below. We recently approved updates to the Oregon ambient air quality standards in Division 202 to account for the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> NAAQS (82 FR 47122, October 10, 2017). In this action, we are proposing to approve further updates to Division 202 for the 2012 PM<sub>2.5</sub>NAAQS, at OAR 340-202-0060. For a detailed discussion of the update to Division 202, see Section V. below.

Oregon has no areas designated nonattainment for the 2010 NO<sub>2</sub> and 2012 PM<sub>2.5</sub> NAAQS, and the EPA is still in the process of completing designations for the 2010 SO<sub>2</sub> NAAQS. We note, however, that the EPA does not consider SIP requirements triggered by the nonattainment area mandates in part D, title I of the CAA to be governed by the submission deadline of CAA section 110(a)(1). Regulations and other control measures for purposes of attainment planning under part D, title I of the CAA are due on a different schedule than infrastructure SIPs.

Oregon's SIP-approved NSR program is administered through Division 216 *Air Contaminant Discharge Permits*. The EPA most recently approved revisions to Oregon's NSR



program as meeting federal requirements on October 10, 2017 (82 FR 47122). The program regulates new and modified stationary sources of NO<sub>2</sub>, SO<sub>2</sub>, direct PM<sub>2.5</sub>, and nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) as precursors to PM<sub>2.5</sub>.

In addition to permitting provisions, Oregon's SIP contains numerous rules that limit NO<sub>x</sub>, SO<sub>2</sub>, and particulate matter emissions. These rules (listed above) include visible emissions standards, particulate emissions standards, requirements for fuel burning equipment and fuel sulfur content, grain loading standards, refuse burning limitations, emission limits for wood products industries and other industries, residential wood heating restrictions, field burning rules, and motor vehicle pollution controls. As a result, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(A) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(B): Ambient air quality monitoring/data system

CAA section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to the EPA upon request.

State submissions: The Oregon submissions reference ORS 468.035(a-e, m) *Functions of the Department* which provides authority to conduct and supervise inquiries and programs to assess and communicate air conditions and to obtain necessary resources (assistance, materials, supplies, etc.) to meet these responsibilities. The submissions also reference Division 212 *Stationary Source Testing and Monitoring* regulations.

EPA analysis: A comprehensive air quality monitoring plan, intended to meet federal requirements, was originally submitted by Oregon on December 27, 1979 (40 CFR 52.1970) and

approved by the EPA on March 4, 1981 (46 FR 15136). The plan includes statutory and regulatory authority to establish and operate an air quality monitoring network, including NO<sub>2</sub>, SO<sub>2</sub>, and PM<sub>2.5</sub> monitoring. Oregon's SIP-approved regulations at Division 212 govern stationary source testing and monitoring in accordance with federal reference methods. Every five years, Oregon assesses the adequacy of the state monitoring network and submits that assessment to the EPA for review. In practice, Oregon operates a comprehensive monitoring network, including NO<sub>2</sub>, SO<sub>2</sub>, and PM<sub>2.5</sub> monitoring, compiles and analyzes collected data, and submits the data to the EPA's Air Quality System on a quarterly basis. Therefore, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(B) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(C): Program for enforcement of control measures

CAA section 110(a)(2)(C) requires states to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources, including a program to meet PSD and nonattainment NSR requirements.

State submissions: The Oregon submissions refer to ORS 468.090 – 140 *Enforcement* which provides the ODEQ with authority to investigate complaints, investigate and inspect sources for compliance, access records, commence enforcement procedures, and impose civil penalties. In addition, ORS 468.035 *Functions of the Department*, paragraphs (j) and (k), provide the ODEQ with authority to enforce Oregon air pollution laws and compel compliance with any rule, standard, order, permit or condition. The submissions also cite:

- ORS 468.020 Rules and Standards
- ORS 468.065 Issuance of Permits; Consent; Fees; Use

- ORS 468.070 Denial, Modification, Suspension or Revocation of Permits
- ORS 468.920 – 963 Environmental Crimes
- ORS 468.996 – 997 Civil Penalties
- ORS 468A.025 Air Purity Standards; Air Quality Standards; Treatment and Control of Emissions; Rules
- ORS 468A.035 General Comprehensive Plan
- ORS 468A.040 Permits; Rules
- ORS 468A.045 Activities Prohibited without Permit; Limit on Activities with Permit
- ORS 468A.050 Classification of Air Contamination Sources; Registration and Reporting; Registration and Reporting of Sources; Rules; Fees
- ORS 468A.055 Notice Prior to Construction of New Sources; Order Authorizing or Prohibiting Construction; Effect of No Order; Appeal
- ORS 468A.070 Measurement and Testing of Contamination Sources; Rules
- ORS 468A.310 Federal Operating Permit Program Approval; Rules; Content of Plan
- ORS 468A.990 Penalties for Air Pollution Offenses
- OAR 340-012 Enforcement Procedure and Civil Penalties
- OAR 340-202 Ambient Air Quality Standards and PSD Increments
- OAR 340-210 Stationary Source Notification Requirements
- OAR 340-214 Stationary Source Reporting Requirements
- OAR 340-216 Air Contaminant Discharge Permits (ADCP)
- OAR 340-224 New Source Review

EPA analysis: The EPA is proposing to find that Oregon code provisions provide the ODEQ with authority applicable to the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> standards to enforce the air quality laws, regulations, permits, and orders promulgated pursuant to ORS Chapters 468 and 468A. The ODEQ staffs and maintains an enforcement program to ensure compliance with SIP requirements. The ODEQ Director, at the direction of the Governor, may enter a cease and desist order for polluting activities that present an imminent and substantial danger to public health (ORS 468.115). Enforcement cases may be referred to the state Attorney General's office for civil or criminal enforcement.

To generally meet the requirements of CAA section 110(a)(2)(C) for regulation of construction of new or modified stationary sources, a state is required to have PSD, nonattainment NSR, and minor NSR permitting programs adequate to implement the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS. As explained above, we are not in this action evaluating nonattainment-related provisions, including the nonattainment NSR program required by part D, title I of the CAA.

Oregon's federally enforceable state operating permit program, at Division 216 *Air Contaminant Discharge Permits*, is also the administrative permit mechanism used to implement the SIP-approved NSR program. We most recently approved revisions to the NSR program (Divisions 200, 202, 209, 212, 216, 222, 224, 225, and 268) as meeting federal requirements at 40 CFR 51.160 through 164 (minor NSR) and 40 CFR 51.166 (PSD) on October 10, 2017 (82 FR 47122). The Oregon minor NSR and PSD rules meet current requirements for all regulated NSR pollutants. Therefore, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(C) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub>

NAAQS.

110(a)(2)(D): Interstate transport

CAA section 110(a)(2)(D)(i) addresses four separate elements, or “prongs.” CAA section 110(a)(2)(D)(i)(I) requires state SIPs to contain adequate provisions prohibiting emissions which will contribute significantly to nonattainment of the NAAQS in any other state (prong 1), and adequate provisions prohibiting emissions which will interfere with maintenance of the NAAQS by any other state (prong 2). CAA section 110(a)(2)(D)(i)(II) requires state SIPs to contain adequate provisions prohibiting emissions which will interfere with any other state’s required measures to prevent significant deterioration (PSD) of its air quality (prong 3), and adequate provisions prohibiting emissions which will interfere with any other state’s required measures to protect visibility (prong 4).

CAA section 110(a)(2)(D)(ii) states SIPs must include provisions ensuring compliance with the applicable requirements of CAA sections 126 and 115 (relating to interstate and international pollution abatement). CAA section 126 requires notification to neighboring states of potential impacts from a new or modified major stationary source, and specifies how a state may petition the EPA when a major source or group of stationary sources in a state is thought to contribute to certain pollution problems in another state. CAA section 115 governs the process for addressing air pollutants emitted in the United States that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare in a foreign country.

State submissions: The Oregon submissions address all interstate transport requirements of the CAA, however, we intend to address certain of these requirements in a

separate, future action, specifically, CAA section 110(a)(2)(D)(i)(I) prongs 1 and 2. This proposed action addresses the remainder: 110(a)(2)(D)(i)(II) prongs 3 and 4, and 110(a)(2)(D)(ii). To meet these provisions, the Oregon submissions reference the state's SIP-approved NSR program and the state's SIP-approved regional haze plan. The Oregon submissions also reference Division 209 *Public Participation*, approved as part of the Oregon NSR program, and assert that Oregon regulations are consistent with federal requirements in Appendix N of 40 CFR part 50 pertaining to the notification of interstate pollution abatement.

EPA analysis: The EPA believes that the PSD sub-element of CAA section 110(a)(2)(D)(i)(II) (prong 3) is satisfied where major new and modified stationary sources in attainment and unclassifiable areas are subject to a SIP-approved PSD program. The EPA most recently approved revisions to Oregon's NSR program as meeting federal PSD requirements on October 11, 2017 (82 FR 47122). Therefore, we are proposing to approve the Oregon SIP as meeting CAA section 110(a)(2)(D)(i)(II) prong 3 with respect to PSD for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

The EPA believes, as noted in the 2013 Guidance, where a state's regional haze plan has been approved as meeting all current obligations, a state may rely upon those provisions in support of its demonstration that it satisfies CAA section 110(a)(2)(D)(i)(II) as it relates to visibility (prong 4). On July 5, 2011, the EPA approved portions of the Oregon regional haze plan, including the requirements for best available retrofit technology (76 FR 38997). We approved the remaining elements of the Oregon regional haze plan on August 22, 2012 (77 FR 50611). Because we approved the Oregon plan as meeting regional haze requirements, we are proposing to approve the Oregon SIP as meeting CAA section 110(a)(2)(D)(i)(II) prong 4

visibility requirements with respect to the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

The Division 209 public notice provisions in Oregon's SIP-approved NSR program require that for major NSR permit actions, Oregon must provide notice to neighboring states, among other officials and agencies. This notice requirement is consistent with CAA section 126(a). In addition, Oregon has no pending obligations under section 115 or 126(b) of the CAA. Therefore, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(D)(ii) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(E): Adequate resources

CAA section 110(a)(2)(E) requires states to provide (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out the SIP (and is not prohibited by any provision of federal or state law from carrying out the SIP or portion thereof), (ii) requirements that the state comply with the state board provisions under CAA section 128 and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of such SIP provision.

State submissions: With respect to sub-element (E)(i), the Oregon submissions cite ORS 468.035 *Functions of Department* which provides the ODEQ authority to employ personnel, purchase supplies, enter into contracts, and to receive, appropriate, and expend federal and other funds for purposes of air pollution research and control. In addition, ORS 468.045 *Functions of Director; Delegation* provides the ODEQ Director with authority to hire, assign, reassign, and coordinate personnel of the department and to administer and enforce the laws of the state concerning environmental quality. In addition, the submission cites the CAA section 105 grants

received from the EPA and matched through the Oregon General Fund.

Turning to sub-element (E)(ii), the submissions cite OAR 340-200-0100 *Purpose*, OAR 340-200-0110 *Public Interest Representation*, and OAR 340-200-0120 *Disclosure of Potential Conflicts of Interest*. The submissions state that the EPA approved the listed regulatory provisions as meeting the requirements of CAA section 128 on January 22, 2003 (68 FR 2891).

With respect to sub-element (E)(iii), the submissions cite ORS 468.020 *Rules and Standards* which requires a public hearing on any proposed rule or standard prior to adoption. ORS 468.035(c) *Functions of Department* provides the ODEQ authority to advise, consult, and cooperate with other states, state and federal agencies, or political subdivisions on all air quality control matters. ORS 468A.010 *Policy* calls for a coordinated statewide program of air quality control with responsibility allocated between the state and the units of local government. ORS 468A.100-180 *Regional Air Quality Control Authorities* describes the establishment, role and function of regional air quality control authorities. State regulations Division 200 specify LRAPA has authority in Lane County and defines the term *Regional Agency*. Division 204 includes designation of control areas within Lane County. Division 216 *Air Contaminant Discharge Permits* includes permitting authority for LRAPA.

EPA analysis: We are proposing to find that the above-referenced provisions provide Oregon with adequate authority to carry out SIP obligations with respect to the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS as required by CAA section 110(a)(2)(E)(i). We are also proposing to approve the Oregon SIP as meeting CAA section 110(a)(2)(E)(ii) because we previously approved the SIP for purposes of CAA section 128. On January 22, 2003, we approved OAR 340-200-0100 through OAR 340-200-0120 as meeting CAA section 128 (68 FR



2891). In addition, we previously approved LRAPA Title 12, Section 025 (recodified at LRAPA Title 13, section 025) as meeting CAA section 128 on March 1, 1989 (54 FR 8538).

We are proposing to find that Oregon has provided necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of the SIP as required by CAA section 110(a)(2)(E)(iii). Therefore, we are proposing to approve the Oregon SIP as meeting the requirements of CAA sections 110(a)(2)(E) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(F): Stationary source monitoring system

CAA section 110(a)(2)(F) requires (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to the CAA, which reports shall be available at reasonable times for public inspection.

State submissions: The Oregon submissions refer to the following statutory and regulatory provisions for source emissions monitoring, reporting, and correlation with emission limits or standards:

- ORS 468.020 Rules and Standards
- ORS 468.035 Functions of Department paragraphs (b) and (d)
- ORS 468A.025(4) Air Purity Standards; Air Quality Standards; Treatment and Control of Emissions; Rules

- ORS 468A.070 Measurement and Testing of Contamination Sources; Rules
- OAR 340-212 Stationary Source Testing and Monitoring
- OAR 340-214 Stationary Source Reporting Requirements
- OAR 340-222 Stationary Source Plant Site Emission Limits
- OAR 340-225 Air Quality Analysis Requirements
- OAR 340-234 Emission Standards for Wood Products Industries: Monitoring and Reporting
- OAR 340-236 Emission Standards for Specific Industries: Emissions Monitoring and Reporting
- OAR 340-240 Rules for Areas with Unique Air Quality Needs
- OAR 340-250 General Conformity

EPA analysis: The Oregon statutory provisions listed above provide authority to establish a program for measurement and testing of sources, including requirements for sampling and testing with respect to the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS. The Oregon regulations cited above require facilities to monitor and report emissions, including requirements for monitoring methods and design, and monitoring and quality improvement plans. Oregon's stationary source reporting requirements include maintaining written records to demonstrate compliance with emission rules, limitations, or control measures, and requirements for reporting and recordkeeping. Information is made available to the public through public processes outlined at OAR 340-209 *Public Participation*.

Oregon submits emissions data to the EPA for purposes of the National Emissions Inventory (NEI). The NEI is the EPA's central repository for air emissions data. Oregon submits

a comprehensive emissions inventory every three years and reports emissions for certain larger sources annually through the EPA's online Emissions Inventory System. Oregon reports emissions data for the six criteria pollutants and also voluntarily reports emissions of hazardous air pollutants. The EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the website <https://www.epa.gov/air-emissions-inventories>.

Based on the analysis above, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(F) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(G): Emergency episodes

CAA section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including adequate contingency plans to implement the emergency episode provisions in their SIPs.

State submissions: The Oregon submissions cite ORS 468-115 *Enforcement in Cases of Emergency* which authorizes the ODEQ Director, at the direction of the Governor, to enter a cease and desist order for polluting activities that present an imminent and substantial danger to public health. In addition, OAR 340-206 *Air Pollution Emergencies* authorizes the ODEQ Director to declare an air pollution alert or warning, or to issue an advisory to notify the public. OAR 340-214 *Stationary Source Reporting Requirements* governs reporting of emergencies and excess emissions and reporting requirements.

EPA analysis: Section 303 of the CAA provides authority to the EPA Administrator to restrain any source from causing or contribution to emissions which present an "imminent and

substantial endangerment to public health or welfare, or the environment.” We find that ORS 468-115 *Enforcement in Cases of Emergency* provides emergency order authority comparable to CAA section 303.

We recently approved revisions to the Oregon air pollution emergency rules at OAR 340-206 *Air Pollution Emergencies* on October 11, 2017 (82 FR 47122). Oregon’s rules are consistent with federal emergency episode requirements for NO<sub>2</sub>, SO<sub>2</sub>, and PM<sub>2.5</sub> (prevention of air pollution emergency episodes, 40 CFR part 51 subpart H; sections 51.150 through 51.153). Accordingly, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(G) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

#### 110(a)(2)(H): Future SIP Revisions

CAA section 110(a)(2)(H) requires that SIPs provide for revision of a state plan (i) from time to time as may be necessary to take account of revisions of a national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining the standard, and (ii), except as provided in paragraph 110(a)(3)(C), whenever the Administrator finds that the SIP is substantially inadequate to attain the NAAQS which it implements or to otherwise comply with any additional requirements under the CAA.

State submissions: The Oregon submissions refer to ORS 468.020 *Rules and Standards* which requires public notice on any proposed rule or standard prior to adoption, and ORS 468A.035 “General Comprehensive Plan” which requires the ODEQ to develop a general comprehensive plan for the control or abatement of air pollution. The submissions also refer to OAR 340-200-0040 *State of Oregon Clean Air Act Implementation Plan* which provides for revisions to the Oregon SIP and submission of revisions to the EPA, including standards

submitted by a regional authority and adopted verbatim into state rules.

EPA analysis: As cited above, the Oregon SIP provides for revisions, and in practice, Oregon regularly submits SIP revisions to the EPA. On October 11, 2017, the EPA approved a large number of revisions to the Oregon SIP (82 FR 47122). Other recent EPA actions on revisions to the Oregon SIP include but are not limited to: April 13, 2016 (81 FR 21814), October 23, 2015 (80 FR 64346), April 25, 2013 (78 FR 24347), October 4, 2012 (77 FR 60627), and November 27, 2011 (76 FR 80747). Accordingly, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(H) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(I): Nonattainment area plan revision under part D

There are two elements identified in CAA section 110(a)(2) not governed by the three-year submission deadline of CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are due on nonattainment area plan schedules pursuant to section 172 and the various pollutant-specific subparts 2 through 5 of part D. These are submissions required by: (i) CAA section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. As a result, this action does not address CAA section 110(a)(2)(C) with respect to nonattainment NSR or CAA section 110(a)(2)(I).

110(a)(2)(J): Consultation with government officials

CAA section 110(a)(2)(J) requires states to provide a process for consultation with local governments and federal land managers carrying out NAAQS implementation requirements

pursuant to CAA section 121. CAA section 110(a)(2)(J) further requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. Lastly, CAA section 110(a)(2)(J) requires states to meet applicable requirements of part C, title I of the CAA related to prevention of significant deterioration and visibility protection.

State submissions: The Oregon submissions reference specific laws and regulations relating to consultation, public notification, and PSD:

- ORS 468.020 Rules and Standards
- ORS 468.035 Functions of Department paragraphs (a), (c), (f), and (g)
- ORS 468A.010 Policy paragraphs (1)(b) and (c)
- ORS 468A.025 Air Purity Standards; Air Quality Standards; Treatment and Control of Emissions; Rules
- OAR 340-202 Ambient Air Quality Standards and PSD Increments
- OAR 340-204 Designation of Air Quality Areas
- OAR 340-224 New Source Review
- OAR 340-225 Air Quality Analysis Requirements

EPA analysis: The Oregon SIP includes specific provisions for consulting with local governments and federal land managers as specified in CAA section 121, including the Oregon rules for PSD permitting. The EPA most recently approved revisions to the Oregon NSR program, which provides opportunity and procedures for public comment and notice to appropriate federal, state and local agencies, on October 11, 2017 (82 FR 47122). In addition, we approved the Oregon rules that define transportation conformity consultation on October 4, 2012

(77 FR 60627) and regional haze interagency planning on July 5, 2011 (76 FR 38997).

In practice, the ODEQ routinely coordinates with local governments, states, federal land managers and other stakeholders on air quality issues including transportation conformity and regional haze, and provides notice to appropriate agencies related to permitting actions. Oregon participates in regional planning processes including the Western Regional Air Partnership, which is a voluntary partnership of states, tribes, federal land managers, local air agencies and the EPA, whose purpose is to understand current and evolving regional air quality issues in the West. Based on the provisions above, we are proposing to find that the Oregon SIP meets the requirements of CAA section 110(a)(2)(J) for consultation with government officials for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

Section 110(a)(2)(J) also requires states to notify the public if ambient air quality standards are exceeded in an area. States must advise the public of the health hazards associated with air pollution and what can be done to prevent exceedances. The EPA calculates an air quality index for five major air pollutants regulated by the CAA: ground-level ozone, particulate matter, carbon monoxide, sulfur dioxide, and nitrogen dioxide. This air quality index (AQI) provides daily information to the public on air quality. Oregon actively participates and submits information to the EPA's AIRNOW and Enviroflash Air Quality Alert programs which provide information to the public on local air quality. Oregon also provides the AQI to the public at <http://www.deq.state.or.us/aqi/>. Therefore, we are proposing to find that the Oregon SIP meets the requirements of CAA section 110(a)(2)(J) for public notification for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, 2012 PM<sub>2.5</sub> NAAQS.

Turning to the requirement in CAA section 110(a)(2)(J) that the SIP meet the applicable

requirements of part C, title I of the CAA, we have evaluated this requirement in the context of CAA section 110(a)(2)(C) and permitting. The EPA most recently approved revisions to Oregon's PSD program on October 11, 2017 (82 FR 47122), updating the program for current federal requirements. Therefore, we are proposing to approve the Oregon SIP as meeting the requirements of CAA 110(a)(2)(J) with respect to PSD for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

With respect to visibility protection under element (J), the EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus we find that there is no new applicable requirement relating to visibility triggered under CAA section 110(a)(2)(J) when a new NAAQS becomes effective.

Based on the above analysis, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(J) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(K): Air quality and modeling/data

CAA section 110(a)(2)(K) requires that SIPs provide for (i) the performance of air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a NAAQS, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

State submissions: The Oregon submissions refer to ORS 468-020 *Rules and Standards* which requires public hearing on any proposed rule or standard prior to adoption, and ORS



468.035 *Functions of Department* which provides the ODEQ authority to conduct studies and investigations to determine air quality. The submissions also reference OAR 340-225 *Air Quality Analysis Requirements* which includes modeling requirements for analysis and demonstration of compliance with standards and increments in specified areas.

EPA analysis: The EPA previously approved OAR 340-225 *Air Quality Analysis Requirements* on October 11, 2017 (82 FR 47122) and these rules specify that modeled estimates of ambient concentrations be based on 40 CFR part 51, Appendix W (Guidelines on Air Quality Models). Any change or substitution from models specified in 40 CFR part 51, Appendix W is subject to notice and opportunity for public comment and must receive prior written approval from the ODEQ and the EPA. In addition, as an example of the state's modeling capacity, we cite to a recent Oregon SIP revision, the Klamath Falls PM<sub>2.5</sub> attainment plan, that was supported by modeling. The EPA approved the SIP revision on June 6, 2016 (81 FR 36176). Based on the above analysis, we are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(K) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(L): Permitting fees

CAA section 110(a)(2)(L) directs SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.

State submissions: The Oregon submissions refer to ORS 468.065 *Issuance of Permits: Content; Fees; Use* which provides the EQC authority to establish a schedule of fees for permits based on the costs of filing and investigating applications, issuing or denying permits, carrying out title V requirements and determining compliance. ORS 468A.040 *Permits; Rules* provides that the EQC may require permits for air contamination sources, type of air contaminant, or

specific areas of the state. The submission also references OAR 340-216 *Air Contaminant Discharge Permits* which requires payment of permit fees based on a specified table of sources and fee schedule.

EPA analysis: On September 28, 1995, the EPA fully-approved Oregon's title V operating permit program (60 FR 50106). While Oregon's title V program is not formally approved into the SIP, it is a mechanism the state can use to ensure that the ODEQ has sufficient resources to support the air program, consistent with the requirements of the SIP. Before the EPA can grant full approval, a state must demonstrate the ability to collect adequate fees. The Oregon title V program included a demonstration that fees would be adequate, and that the state would collect fees from title V sources above the presumptive minimum in accordance with 40 CFR 70.9(b)(2)(i). In addition, we note that Oregon SIP-approved regulations require fees for purposes of major and minor NSR permitting, as specified in OAR 340-216-0090 *Sources Subject to ADCP and Fees*, OAR 340-216-8010 *Table 1 – Activities and Sources*, and OAR 340-216-8020 *Table 2 – Air Contaminant Discharge Permits (fee schedule)*. Therefore, we are proposing to conclude that Oregon has satisfied the requirements of CAA section 110(a)(2)(L) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS.

110(a)(2)(M): Consultation/participation by affected local entities

CAA section 110(a)(2)(M) requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

State submissions: The Oregon submissions refer to the following laws and regulations:

- ORS 468.020 Rules and Standards
- ORS 468.035 Functions of Department paragraphs (a), (c), (f), and (g)

- ORS 468A.010 Policy paragraphs (1)(b) and (c)
- ORS 468A.025 Air Purity Standards; Air Quality Standards; Treatment and Control of Emissions; Rules
- ORS 468A.035 General Comprehensive Plan
- ORS 468A.040 Permits; Rules
- ORS 468A.055 Notice Prior to Construction of New Sources; Order Authorizing or Prohibiting Construction; Effect of No Order; Appeal
- ORS 468A.070 Measurement and Testing of Contamination Sources; Rules
- ORS 468A.100-180 Regional Air Quality Control Authorities
- OAR 340-200 General Air Pollution Procedures and Definitions
- OAR 340-204 Designation of Air Quality Areas
- OAR 340-216 Air Contaminant Discharge Permits

EPA analysis: The regulations cited by Oregon were previously approved on December 27, 2011 (76 FR 80747), and provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. We are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(M) for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and the 2012 PM<sub>2.5</sub> NAAQS.

## **V. Rule Revisions**

Oregon submitted several rule revisions in the December 27, 2013, and October 20, 2015, SIP submissions. However, most of these rule revisions were superseded by rule changes

submitted on April 22, 2015 and approved on October 11, 2017 (82 FR 47122).<sup>4</sup> There are two rule changes that are relevant to our proposed infrastructure action and that were not superseded by the April 22, 2015, submission. Specifically, Oregon revised OAR 340-202-0060 *Suspended Particulate Matter* to lower the level of the primary annual fine particulate matter standard from 15  $\mu\text{g}/\text{m}^3$  to 12  $\mu\text{g}/\text{m}^3$ , consistent with the federal  $\text{PM}_{2.5}$  NAAQS promulgated on December 14, 2012 at 40 CFR 50.18 (January 15 2013, 78 FR 3086). Oregon also revised OAR 340-200-0030(22) NAAQS to include  $\text{PM}_{2.5}$  in the definition of NAAQS pollutants. We propose to approve these rule changes related to  $\text{PM}_{2.5}$  because they are consistent with the federal  $\text{PM}_{2.5}$  NAAQS.

As part of this action we are also proposing to approve a SIP revision submitted by Oregon on July 18, 2017. The July 18, 2017, submission updated Oregon rules to account for changes to the federal ozone standard. Specifically, Oregon revised OAR 340-202-0090 *Ozone* to lower the level of the 8-hour ozone standard from 0.075 ppm to 0.070 ppm, consistent with the federal ozone NAAQS promulgated on October 1, 2015 at 40 CFR 50.19 (October 26 2015; 80 FR 65292). We note that this update to the ozone standard in the Oregon SIP is not relevant to our infrastructure action on the 2010  $\text{NO}_2$ , 2010  $\text{SO}_2$ , and 2012  $\text{PM}_{2.5}$  NAAQS, and is only being included in this action for efficiency. We propose to approve this rule update for the revised ozone standard because it is consistent with the federal ozone standard.

With respect to each of the submissions, we are taking no action on OAR 340-200-0040 *State of Oregon Clean Air Act Implementation Plan* because we have determined it is

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<sup>4</sup> Oregon's December 27, 2013 and October 20, 2015 submissions included revisions to OAR 340-200-0020, OAR 340-200-0040, OAR 340-202-0060, OAR 340-202-0070, OAR 340-202-0130, OAR 340-250-0030(22). Oregon's April 22, 2015, submission superseded all but OAR 340-200-0060 and OAR 340-200-0030(22) (October 11, 2017; 82 FR 47122).

inappropriate to take action on a provision addressing state SIP adoption procedures, and because the relevant SIP provisions adopted into this rule at OAR 340-200-0040 have been separately submitted for approval, namely, the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> infrastructure submissions and the specific rule revisions described above.

## **VI. Proposed Action**

The EPA is proposing to approve Oregon's December 27, 2013 and October 20, 2015, SIP submissions as meeting specific infrastructure requirements of the CAA. We propose to find that the Oregon SIP meets the following CAA section 110(a)(2) infrastructure elements for the 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2012 PM<sub>2.5</sub> NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

We are proposing to approve, and incorporate by reference at 40 CFR part 52, subpart MM, the following rule sections submitted October 20, 2015 (state effective October 16, 2015): OAR 340-202-0060 *Suspended Particulate Matter*; and OAR 340-250-0030(22) *NAAQS*. We are also proposing to approve, and incorporate by reference at 40 CFR part 52, subpart MM, the following rule section submitted July 18, 2017 (state effective July 13, 2017): OAR 340-202-0090 *Ozone*. We note that this update to OAR 340-202-0090 is not related to, nor is it necessary for our infrastructure action. We are including it in this action for efficiency.

## **VII. Incorporation by Reference**

In this rule, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are proposing to incorporate by reference the provisions described above in Section VI. Proposed Action. The EPA has made, and will continue to make, these documents generally available electronically

through <https://www.regulations.gov> and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

### **VIII. Statutory and Executive Orders Review**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR

43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 8, 2018.

Chris Hladick,  
Regional Administrator,  
Region 10.

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